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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/820,697  | 03/30/2001  | Hassan P.A. Salam    | 66455-191-7         | 7375             |
| 25269   | 7590        | 01/25/2005           | EXAMINER            |                  |
| DYKEMA GOSSETT PLLC<br>FRANKLIN SQUARE, THIRD FLOOR WEST<br>1300 I STREET, NW<br>WASHINGTON, DC 20005 |             |                      |                     | NGUYEN, LEE      |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             | 2682                 |                     |                  |

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/820,697             | SALAM, HASSAN P.A.  |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | LEE NGUYEN             | 2682                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 September 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 14-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 14 and 16-24 is/are rejected.

7) Claim(s) 15 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/30/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Great Britain on 04-2000, 05-2000 and 12-2000. It is noted, however, that applicant has not filed a certified copy of the three Great Britain application as required by 35 U.S.C. 119(b).
  
2. This action is responsive to the communication filed 09/23/2004. Claims 1-13 were canceled. New claims 14-24 remain in prosecution.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 17 and 19-20 are rejected under 35 U.S.C. 102(a) as being anticipated by Puthuff et al. (US 6,181,801).

Regarding claim 17, Puthuff teaches a boomless mobile phone hands-free kit usable by a pedestrian and arranged for reducing electromagnetic radiation into the user's brain, the kit comprising, as viewed during use: an assembly comprising an elongate dielectric tube 22, 24 (fig. 2) having a first end terminating in an earpiece 30 and a second end fixed to a housing 28 (fig. 1) that is lower than the earpiece; a speaker 36 in said housing 28 delivering sound into said tube 22, 24; a mobile phone connector 16, 17 (fig. 1) connectable with a mobile phone handset (col. 6, 25); a microphone 34; cabling 100, 102 that electrically connects said speaker 36, and said microphone 34, with said mobile phone connector 16, 17 (fig. 1); wherein the electrical parts of said kit are inherently distanced from the user's ear so as to avoid electromagnet radiation from a mobile phone connected to said connector being relayed to the user's ear (col. 3, 35-36, and MPEP 2114).

Regarding claim 19, Puthuff inherently teaches that said microphone 34 is arranged for sensing ambient sound in the vicinity of said housing 28 (col. 3, 38-40).

Regarding claim 20, Puthuff teaches that said microphone 34 is in said housing 28 and said housing 28 inherently has an opening to receive the ambient sound (col. 3, 38-40).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 14, 16 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grinfas et al. (GB 2,316,263).

Regarding claim 14, Grinfas teaches a mobile phone handset usable by a pedestrian and arranged for reducing electromagnetic radiation into the user's brain while the handset is used in the hand, the handset comprising: a radio transceiver 14, 16 (fig. 1); an aerial (fig. 1); an earpiece 164 (fig. 14A) for transmitting sound in a first direction (toward the user's ear, fig. 2); a speaker 44 (fig. 3); and an elongated tube 162 that can telescope out of the handset in the first direction (toward the user's ear); said tube 162 (figs 14A-14B) carrying said earpiece 164 and channeling sound from said speaker 44 (fig. 3) to said earpiece (path 169, figs. 13A-14B, page 12). Grinfas fails to teach that the tubes are made of dielectric material. From figures 7A through 14B of Grinfas, the tubes are made from several different materials. Therefore, it could also be dielectric material such as plastic for the purpose of further reducing electric signal radiation. It would

have been obvious to one of ordinary skill in the art at the time the invention was made to provide dielectric material to the tubes of Grinfas in order to reduce electric radiation. Grinfas also teaches that the tubes 167, 168 (fig. 13A) can protrude perpendicularly or at any other suitable angle (page 12, third paragraph). Therefore, the tubes can be inclined with respect to the first direction.

Regarding claim 16, Grinfas teaches a mobile phone handset usable by a pedestrian and arranged for reducing electromagnetic radiation into the user's brain while the handset is used in the hand, the handset comprising: a radio transceiver 14, 16 (fig. 1); an aerial (fig. 1); a speaker 44 (fig. 3); a telescope arrangement 162 comprising a plurality of elongate concentric tubes 162 (figs. 14A-14B) out of one of which an earpiece bulges 164 (fig. 14 A); the telescope arrangement 162 channeling sound from said speaker 44 (fig. 2) to said earpiece 164 (path 169, fig. 13A-14B, page 12, third paragraph). Grinfas fails to teach that the tubes are made of dielectric material. From figures 7A through 14B of Grinfas, the tubes are made from several different materials. Therefore, it could also be dielectric material such as plastic for the purpose of further reducing electric signal radiation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide dielectric material to the tubes of Grinfas in order to reduce electric radiation.

Regarding claim 21, Grinfas teaches a mobile phone device for reducing electromagnetic radiation from a mobile phone into the user's ear comprising: an earpiece 164 (figs. 14A-B); a speaker 44 (fig. 2) a receptacle 166 (figs. 14 A-B); a first sliding tube 162 that slides in said receptacle 166 and receives sound from said speaker 44; a second sliding tube 162 (figs. 14 A-B) receiving sound from said first sliding tube 162 and transmitting that sound to said earpiece 164; whereby said earpiece 164 can be distanced from said speaker 44 during phone calls so as to reduce electromagnetic radiation into the user's ear (inherently or abstract).

Grinfas fails to teach that the tubes are made of dielectric material. From figures 7A through 14B of Grinfas, the tubes are made from several different materials. Therefore, it could also be dielectric material such as plastic for the purpose of further reducing electric signal radiation. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to provide dielectric material to the tubes of Grinfas in order to reduce electric radiation.

Regarding claim 22, Grinfas also teaches that said receptacle 12, 18, 20 (fig. 2) comprise a microphone 18.

Regarding claim 23, Grinfas also teaches several dielectric sliding tubes 162 (fig. 14A).

Regarding claim 24, Grinfas teaches a mobile phone device for reducing electromagnetic radiation from a mobile phone into the user's ear comprising: an earpiece 164 (figs. 14A-B); a speaker 44 (fig. 2) a receptacle 166 (figs. 14 A-B); a sliding tube 162 that slides in said receptacle 166 and receives sound from said speaker 44 and forwards the sound to said earpiece 164; whereby said earpiece 164 can be distanced from said speaker 44 during phone calls so as to reduce electromagnetic radiation into the user's ear (inherently or abstract). Grinfas fails to teach that the tubes are made of dielectric material. From figures 7A through 14B of Grinfas, the tubes are made from several different materials. Therefore,

it could also be dielectric material such as plastic for the purpose of further reducing electric signal radiation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide dielectric material to the tubes of Grinfas in order to reduce electric radiation.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Puthuff et al.

Regarding claim 18, Puthuff fails to teach that said tube is less than twenty centimeters long. From figure 2, numerals 22, 24 and column 3, lines 33-36 of Puthuff, it is obvious that the length of tube 22, 24 can be less than twenty centimeters long. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the tube with less than twenty centimeters long in order to obtain better sound signal because the longer the tube, the less the sound quality.

***Allowable Subject Matter***

9. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 15, the prior art of record fails to teach the enabling as claimed.

***Response to Arguments***

10. Applicant's arguments with respect to claims 14 and 16-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Lee Nguyen* 1/12/05  
LEE NGUYEN  
Primary Examiner  
Art Unit 2682